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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/678,593	10/02/2003	Gintaras A. Vaisnys	DEFIB-65674	6159

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EXAMINER

ALTER, ALYSSA MARGO

ART UNIT	PAPER NUMBER
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3762

MAIL DATE	DELIVERY MODE
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09/26/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/678,593	Applicant(s) VAISNYS ET AL.	
	Examiner Alyssa M. Alter	Art Unit 3762	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 August 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,4,5 and 7-48 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,4,5 and 7-48 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) ☒ Notice of References Cited (PTO-892) | 4) ☐ Interview Summary (PTO-413) |
| 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) ☐ Information Disclosure Statement(s) (PTO/SB/08) | 5) ☐ Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) ☐ Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on August 1, 2008 has been entered.

Response to Arguments

Applicant's arguments with respect to claims 1-2, 4-5 and 7-48 have been considered but are moot in view of the new ground(s) of rejection necessitated by amendment.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

1. Claims 2 and 4-5 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. As to claim 2, it is unclear when the "second illumination" occurs since both the "first" and "second" illumination occur when the system is operating normally.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 1-2, 4, 8, 13, 19, 21, 25, 36, 40-41 and 43 are rejected under 35 U.S.C. 102(b) as being anticipated by Powers et al. (US 5,800,460). Powers et al. discloses an external defibrillator system with a battery that performs automatic self-tests without requiring user intervention. The external defibrillator has defibrillation circuitry, as well as a switching mechanism 110 to regulate the energy output or energy flow. Furthermore, the switching mechanism is capable of putting the system into an operational mode or a stand-by mode.

In addition the external defibrillator has a visual display 58 which displays an “ok” symbol is the system is okay for operation and a “not” symbol with the “ok” when it is insufficient for operation. Thus, the examiner considers the illuminated “ok” to be the active status indicator. Also, an audible tone or buzzer may be emitted in conjunction with the “not” symbol.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

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invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 1-2, 4-5 and 7-48 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Olson et al. (US 5,792,190). Olson et al. discloses an automated external defibrillator (AED) having a case, processor, a battery pack, a speaker a rescue switch 18 and active status indicator, indicator 20. The external defibrillation system executes both a lid opened self test as well as a lid closed self test. The lid closed self test is preformed "in a manner identical" to the lid opened self test. Thus, when the lid opened self test is complete and there are no errors, the system switches the maintenance indicator to an operational state, i.e. the indicator turns a black color (col. 6, lines 20-23). Therefore, once the closed lid self test is commenced and there are no errors, it can be concluded that the maintenance indicator would also turn a black color.

In the alternative, although the examiner considers Olson et al. to disclose an active status indicator to illuminate in the "standby" or "ready state", it would have been obvious to one having ordinary skill in the art at the time the invention was made to program the status indicator to display when the system is in "stand-by" or "ready" mode in order to provide the predictable results of enabling the user to see if the system is in full working order and ready for use before touching or attempting to use the system.

As to claims 10-12, 16-18, 22-24, 30-32, 42, 44, 46 and 48, Olson et al. discloses the claimed invention except for the blinking LEDs. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the indicators as taught by Olson et al. with blinking LEDs since it was known in the art to

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employ blinking LEDs to provide the predictable results of drawing attention to the medical device's operational state. For example, blinking LEDs can be employed when a machine is in the process of dispensing therapy or recharging.

2. Claims 7, 10-11, 16-17, 22-23, 30-31, 37-39, 42, 44, 46 and 48 are rejected under 35 U.S.C. 103(a) as being unpatentable over Powers et al. (US 5,800,460). Powers et al. discloses the device except the blinking LEDs or different types of illuminations. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the indicators as taught by Powers et al. with blinking LEDs since it was known in the art to employ blinking LEDs to provide the predictable results of drawing attention to the medical device's operational state. For example, blinking LEDs can be employed when a machine is in the process of dispensing therapy or recharging.

As to claim 7, Powers et al. discloses the claimed invention except for second processor. It would have been obvious to one having ordinary skill in the art at the time the invention was made to include a second processor, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8 (see MPEP 2144.04).

Furthermore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the the one processor with two processors since it was known in the art that two processor provide the predictable results of decreasing processing time as well as function as a back-up to the first processor.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alyssa M. Alter whose telephone number is (571)272-4939. The examiner can normally be reached on M-F 8am to 4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Angela Sykes can be reached on (571) 272-4955. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/George R Evanisko/
Primary Examiner, Art Unit 3762

/Alyssa M Alter/
Examiner
Art Unit 3762